

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

HECTOR BURGOS-HUERTAS,

Plaintiff,

v.

Case No. 8:21-cv-1320-SDM-CPT

KILOLO KIJAKAZI,
Acting Commissioner of Social Security,¹

Defendant.

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REPORT AND RECOMMENDATION

Before me on referral is the Commissioner's *Unopposed Motion for Entry of Judgment with Remand*. (Doc. 19). By way of her motion, the Commissioner seeks an Order remanding this case pursuant to sentence four of 42 U.S.C. § 405(g). *Id.* In support of this request, the Commissioner asserts that, on remand, an Administrative Law Judge "will offer [the] Plaintiff the opportunity to submit additional evidence [to buttress] his claim; provide the opportunity for a hearing in accordance with the agency's updated administrative procedures; and issue a new decision." *Id.* The Commissioner also represents that the Plaintiff has no objection to this relief. *Id.*

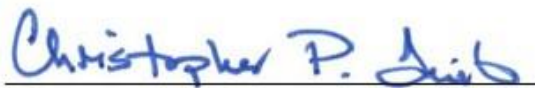
¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Federal Rule of Civil Procedure 25(d), Ms. Kijakazi is substituted for Commissioner Andrew M. Saul as the Defendant in this suit.

Sentence four of section 405(g) provides that “[t]he court shall have [the] power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner . . . with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g). In a sentence four remand, the appropriate procedure is for the court to enter a final judgment in the claimant’s favor. *Shalala v. Schaefer*, 509 U.S. 292, 296–97 (1993); *Jackson v. Chater*, 99 F.3d 1086, 1095 (11th Cir. 1996).

In light of the above, I respectfully recommend that the Court enter an Order:

1. Granting the Commissioner’s *Unopposed Motion for Entry of Judgment with Remand* (Doc. 19);
2. Remanding this action for further proceedings before the Commissioner consistent with the above;
3. Directing the Clerk of Court to enter Judgment in the Plaintiff’s favor and to close the case; and
4. Retaining jurisdiction on the matter of attorney’s fees and costs pending further motion in accordance with Local Rule 7.01.

Respectfully submitted this 5th day of November 2021.


HONORABLE CHRISTOPHER P. TUIE
United States Magistrate Judge

NOTICE TO PARTIES

A party has fourteen (14) days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections, or to move for an extension of time to do so, waives that party's right to challenge on appeal any unobjected-to factual finding(s) or legal conclusion(s) the District Judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1; 28 U.S.C. § 636(b)(1).

Copies to:

Honorable Steven D. Merryday, United States District Judge
Counsel of record